LEGAL AID ONTARIO
AIDE JURIDIQUE ONTARIO

Refugee & Immigration Services

2014/15 Annual Report

06/30/2015

Acronym legend

AFA	Alternative Fee Arrangements
CARL	Canadian Association of Refugee Lawyers
CBSA	Canada Border Services Agency
CCR	Canadian Council for Refugees
CIC	Citizenship and Immigration Canada
DOJ	Department of Justice
GTA	Greater Toronto Area
H&C	Humanitarian and Compassionate
ILSO	Integrated Legal Services Office
IRB	Immigration & Refugee Board
JR	Judicial review
LAO	Legal Aid Ontario
PRRA	Pre-Removal Risk Assessment
RAD	Refugee Appeal Division
RLA	Refugee Lawyers Association
RLO	Refugee Law Office, Legal Aid Ontario
RPD	Refugee Protection Division

This report captures information related to the provision of legal aid refugee and immigration services in Ontario, Canada.

Introduction

Legal Aid Ontario (LAO) continues to transform the delivery of refugee and immigration services, a process begun in 2012. Transformation will ensure compliance with LAO's mandate under the *Legal Aid Services Act* to provide high-quality, cost-effective and efficient services, as well as to be responsive to ongoing legislative, political and environmental changes in the refugee and immigration world.

The key objectives of LAO's refugee and immigration services strategy are captured below.

- Ensure the delivery of high quality service to clients
- Respond to legislative change, *Protecting Canada's Immigration System Act*, December 15, 2012.
- Modernize the delivery of refugee and immigration law services based on the continuum of service.
- Manage refugee and immigration law services within LAO's budget.

Refugee and Immigration Services business planning

Annually, LAO engages in a detailed refugee and immigration services business planning process. The process involves environmental scanning and gathering stakeholder input.

LAO accomplished the following key strategic objectives for fiscal year 2014/15:

Strategic quadrant	Accomplishment
Value for clients	Implemented the Refugee Law Office Evaluation recommendations
Value for clients	Developed LAO's refugee reform/test case strategy
Value for clients	Developed the new refugee and immigration panel standards
Service provider support	Implemented LAO's refugee and immigration mentoring program
Institutional enhancements	Developed and delivered a comprehensive training plan for refugee and immigration staff and private bar service providers

Strategic quadrant	Accomplishment
Institutional enhancements	Networked with key stakeholders (Refugee Lawyers Association (RLA), Immigration & Refugee Board (IRB), Canada Border Services Agency (CBSA), Canadian Council for Refugees (CCR), Canadian Association of Refugee Lawyers (CARL) to further engage and share information
Value for clients	Diversified refugee service providers. LAO opened a staff office in Hamilton and launched clinic refugee pilots
Service provider support	Improved billing and payments, including implementing alternative fee arrangements
Institutional enhancements	Explored centralization of LAO refugee and immigration services programming and promoted integration and collaboration with refugee and immigration staff services province wide

LAO's Refugee and Immigration Services business plan for fiscal year 2015/16 will focus on the following key objectives:

Strategic priority	Initiatives	Strategic quadrant
Expand services	Continue the development of the Refugee Law Office Centre of Excellence	Value for clients
Expand services	Integrate GTA refugee and immigration legal services with panel management services	Value for clients
Expand services	Implement LAO's refugee reform/test case strategy	Value for clients
Expand services	Ensure successful implementation of new expanded financial and legal eligibility coverage	Value for clients

Strategic priority	Initiatives	Strategic quadrant
Improve LAO's legal skills and organizational capacity	Continue LAO's refugee and immigration law training strategy for all providers	Institutional enhancements
Simplify LAO decision-making	Expand alternative fee arrangements and improve billing and payments for refugee and immigration service providers	Service provider support
Simplify LAO decision-making	Develop refugee panel management systems and processes for the GTA refugee panel	Value for clients
Improve accountability	Implement refugee and immigration quality standards	Value for clients
Advance client-centered technology	Implement access to justice (A2J) software for basis of claim preparation, deploy mobile technology for refugee services	Value for taxpayers
Improve accountability	Perfect and consolidate refugee legal and panel services performance measures, operational and statistical reports	Value for taxpayers
Stakeholders	Continue efforts at stakeholder engagement (RLA, IRB, CCR, CARL, CBSA, and refugee serving agencies)	Value for stakeholders
Budget	Ensure program sustainability and a balanced budget	Value for taxpayers

Refugee and Immigration Services program budget

LAO receives approximately $7 million in funding from the federal government to deliver its immigration and refugee services program. Federal funding is supplemented with funding from the province. LAO spent over $20 million in fiscal year 2014/15 to cover the costs of its certificate, staff, and clinic refugee services.

Service	Estimated costs fiscal year 2014/15
Certificates	$16 million
Area committee	$200,000
Staff: **Refugee transformation** **Refugee Law Office (RLO) - Toronto** **RLO - Hamilton** **Integrated Legal Services Office (ILSO) – Ottawa** **Summary Legal Advice Immigration – GTA**	$4 million
Clinic pilots: **Rexdale** **Centre Francophone de Toronto** **Vanier**	$200,000
All services	$20.4 million

In 2014/15, LAO provided funding for refugee and immigration services for a total of:

- 6,445 private bar certificates
- 777 client staff services
- 68 clinic special project services

Certificate program

Certificate coverage

LAO currently covers an array of refugee and immigration services through its certificate program. Certificates enable clients to obtain services from private practitioners at a fixed tariff.

If a legal aid applicant is financially eligible and his/her refugee matter has merit, LAO pays a private bar lawyer for the following services:

- Preparation of a basis of claim and related forms for Citizenship and Immigration Canada (CIC)
- Representation at a hearing with the Refugee Protection Division (RPD)
- Preparation of an appeal to the Refugee Appeal Division (RAD)
- Preparation of a JR application in the federal court
- Preparation of a motion for a stay of removal in the federal court
- Representation at the RPD for a cessation or vacation hearing
- Preparation of a pre-removal risk assessment (PRRA) application
- Preparation of a danger opinion.

If a legal aid applicant is financially eligible and his/her immigration matter has merit, LAO pays a private bar lawyer for:

- representation at a detention review
- representation at immigration appeals
- preparation of a humanitarian and compassionate application.

Certificate costs

The chart below captures, at a high level, certificates issued for 2014/15.

Product (in number of certificates)

	Convention Refugee Determination Division hearing	Judicial review Appeal to federal court	Immigration Appeal Division	Refugee Appeal Division	Other immigration	Total	Total cost
GTA Region	4,243	451	73	234	340	5,341	$13,621,310.97
Southwest Region	493	34	8	15	62	612	$1,693,090.68

	Convention Refugee Determination Division hearing	Judicial review Appeal to federal court	Immigration Appeal Division	Refugee Appeal Division	Other immigration	Total	Total cost
Northern, Central & Eastern Regions	330	31	23	15	93	492	$1,044,048.56
Total	5,066	516	104	264	495	6,445	$16,358,450.21

Improvements to the certificate program

LAO is committed to improving the way private bar lawyers bill and LAO pays certificate accounts. LAO is piloting Alternative Fee Arrangements (AFA) with selected refugee and immigration lawyers. AFAs reduce the administrative billing burden many lawyers experience working for clients on certificates by paying a fixed annual fee pro-rated on a monthly basis for the delivery of specified services. Lawyers on AFAs are no longer required to request certain authorizations, disbursements and discretion.

LAO has added 11 hours to certificates for "legacy claim" personal information forms prior to hearings scheduled by the IRB. This measure makes it easier for counsel to continue representing financially eligible refugee clients while awaiting a hearing date from the IRB.

LAO now covers:

- time required to make post-hearing submissions to the federal court on "certified questions"
- concurrent refugee/immigration matters.

LAO continues to cover RAD matters, and pays for cessation and vacation proceedings for those financially eligible.

In the fall of 2012, LAO eliminated judicial review (JR) opinion letters and introduced retroactive authorizations for preparation of merit assessment. In response to concerns raised by the bar to these measures, and an evaluation that identified gaps in service, LAO introduced staff merit assessments in 2014. Persons unable to secure private bar services for a merit assessment can approach staff in Toronto, Hamilton or Ottawa for a merit assessment. Based on feedback from practitioners on the effectiveness of these measures, LAO is exploring additional opportunities for JR and RAD merit assessment services connected to the implementation of the new refugee and immigration quality standards, including a return to the payment scheme that existed prior to the 2012 changes.

LAO is examining ways to address coverage issues in areas of deferrals and stays. Recent increases to funding by the Ministry of the Attorney General to improve financial eligibility for clients open possibilities in the area of legal aid coverage.

Staff services

Refugee claimants who apply to legal aid for services in support of their RPD, RAD or federal court proceedings can request services from an LAO employee. Claimants who do not have counsel at the time of application are offered all options, and can make their own choice of service provider: staff, clinic or private bar.

Refugee Law Office: Toronto

The Refugee Law Office (RLO) in Toronto recently celebrated its 20th anniversary. Staff members provide services in several languages, including French, Dari, Spanish, Somali, and Swahili. The RLO assists clients with their basis of claim forms, hearing representation before the RPD of the IRB, applications to the RAD, PRRA applications, H&C applications, detention reviews, appeals of deportation orders and federal court hearings, including stays of removal.

RLO management & staff	#
Director/executive lead	1
Senior counsel	1
Team managers	2
Lawyers	8
Licensed paralegals	2
Legal aid workers (LAWs)	7
Legal support	2
Receptionist	1
Total	**24**

RLO budget	$2.8 million

In 2013, the RLO underwent a program evaluation. Staff and management spent 2013 and most of 2014 implementing the evaluation recommendations. Improvements were made in the following areas:

- Vision and accountability – the creation of a strategic and business plan, Refugee Law Office Strategic Plan 2014–2017 including the development of key performance measures and a reporting dashboard.
- Facilities – the redesign of the work space to ensure each caseworker has a work station and clients have access to more interview rooms.

- Docketing and reporting – the deployment of a web version of Legal Files (case management software), the development of policies and process regarding docketing, and training.
- Oversight and management structure – the hiring of two team managers each with 10 staff reports to ensure adequate oversight.
- Policies and process – the development of a number of policies related to key activities, including centralized intake, detention, and case selection.
- Training – the development and implementation of a training plan to drive centre of excellence objectives.

Notable RLO activities in 2013/14

Korean project

The Law Society of Upper Canada suspended a refugee panel member who represented Korean refugee claimants. LAO's Refugee Law Office, together with the GTA District office, retained a Korean lawyer to triage the 50 plus refugee claimants affected by the lawyer's suspension. All claimants were reassessed to determine the appropriate legal remedies that ought to be pursued and were referred to competent counsel.

Appearances before the Supreme Court of Canada

LAO staff lawyers and senior counsel appeared before the Supreme Court of Canada on behalf of CARL in two ground-breaking appeals: a two-day constitutional challenge to the anti-human smuggling provisions of the *Immigration and Refugee Protection Act*, and a challenge to restrictions on access to humanitarian and compassionate consideration under the same Act.

United Nations Human Rights Committee

The UN granted several RLO clients "Interim Measures" under the Optional Protocol to the *International Covenant on Civil and Political Rights*, stopping their deportation at the eleventh hour. Cases included those of a young woman whose deportation to Eritrea would have exposed her to persecution, arbitrary detention and torture on the basis of her political opinion, religion, and gender, and whose risks had not been properly assessed by Canadian decision makers; and a young woman, her mother and her infant, all three of them survivors of extreme domestic violence, who were facing deportation to their native Antigua and Barbuda where their abuser awaited them, and whose claims to refugee protection had never been adjudicated.

Canadian Council for Refugees (CCR)

Staff members at the RLO are actively engaged in the CCR, attending CCR conferences and working groups, as well as delivering sessions for participants. This year the spring consultation took place in Halifax and the fall consultation took place in Gatineau, Quebec. RLO staff supported the CCR by organizing, speaking and moderating various workshops, including one on the RAD.

Canadian Association of Refugee Lawyers (CARL)

Staff members attend the annual CARL conference and deliver training sessions to participants. One staff member serves as the vice-president of the association and another as co-chair of its litigation committee.

Integrated Legal Services Office (ILSO) – Ottawa refugee services

Staff lawyers and a legal aid worker at the Integrated Legal Services Office provide assistance to clients with refugee and immigration law matters including but not limited to the preparation of Basis of Claim forms, representation at hearings before the RPD, representation at detention hearings, and in some cases, assistance with RAD matters and federal court judicial reviews.

ISLO staff	**#**
Lawyers	2
Legal aid worker	1
Total	**3**

ISLO – Refugee services budget	**$250,000**

Southwestern Ontario: Hamilton District Office

LAO hired three caseworkers – two lawyers and a licensed paralegal – to deliver client services in Hamilton. The Hamilton staff support refugee claimants in Southwestern Ontario, including London and Windsor. Staff members work closely with the Fort Erie Multicultural Centre to fill gaps in access to refugee services in Fort Erie. Services include preparation of basis of claim forms, hearing representation at the RPD, detention reviews and judicial reviews.

RLO - Hamilton staff	**#**
Lawyers	2
Licensed paralegal	1
Total	**2**

RLO – Hamilton budget	$250,000

Summary legal advice – immigration

Staff in the GTA District office provide summary legal advice and deliver immigration services, including

- representation at detention reviews
- representation at immigration appeals
- preparation of humanitarian and compassionate applications.

Summary legal advice - GTA	#
Lawyers	3
Paralegal	1
Legal aid workers	4
Total	**8**

Summary legal advice – GTA budget	$600,000

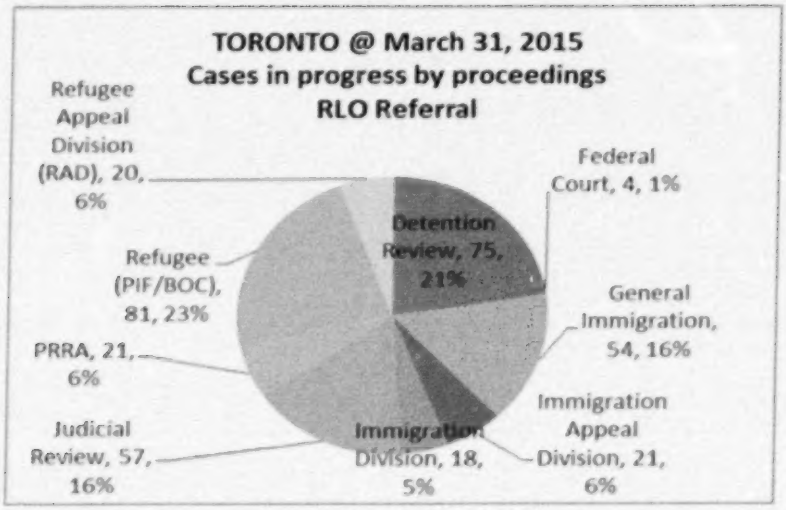
Staff services - key performance measures

All three staff offices (Toronto, Ottawa and Hamilton) have the same five performance measures:

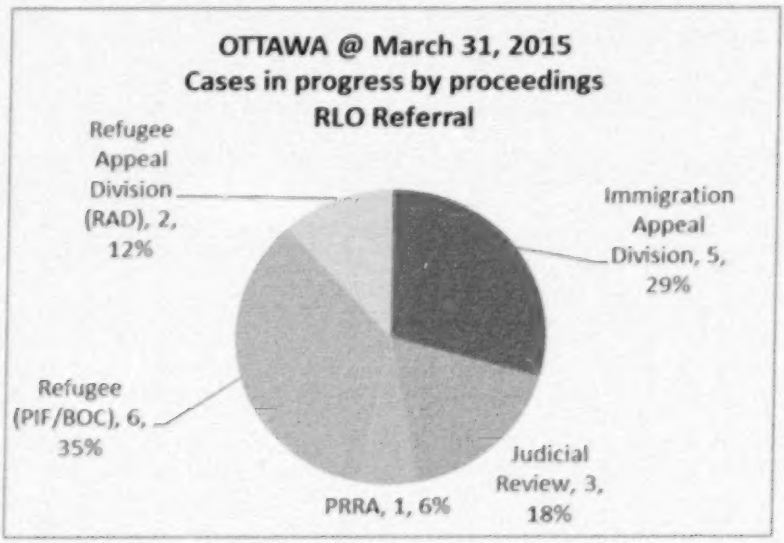
- Clients served and services provided
- Cost effectiveness (in development)
- Resource allocation (in development)
- Outcomes
- Client satisfaction (in development).

These performance measures were developed building on the foundations of the performance measures for clinics. This is the first year of systematically tracking these performance measures and some are better developed and more accurate than others. Next year's annual report will contain more comprehensive presentation of the measures and results.

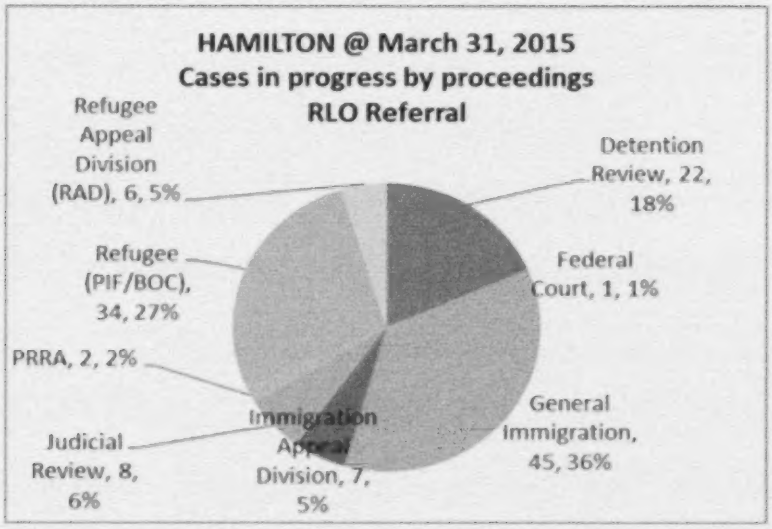
RLO Toronto 2014/15


TORONTO @ March 31, 2015
Cases in progress by proceedings
RLO Referral
Refugee Appeal Division (RAD), 20, 6%
Federal Court, 4, 1%
Detention Review, 75, 21%
Refugee (PIF/BOC), 81, 23%
General Immigration, 54, 16%
PRRA, 21, 6%
Immigration Appeal Division, 21, 6%
Judicial Review, 57, 16%
Immigration Division, 18, 5%

Integrated Legal Services Ottawa 2014/15

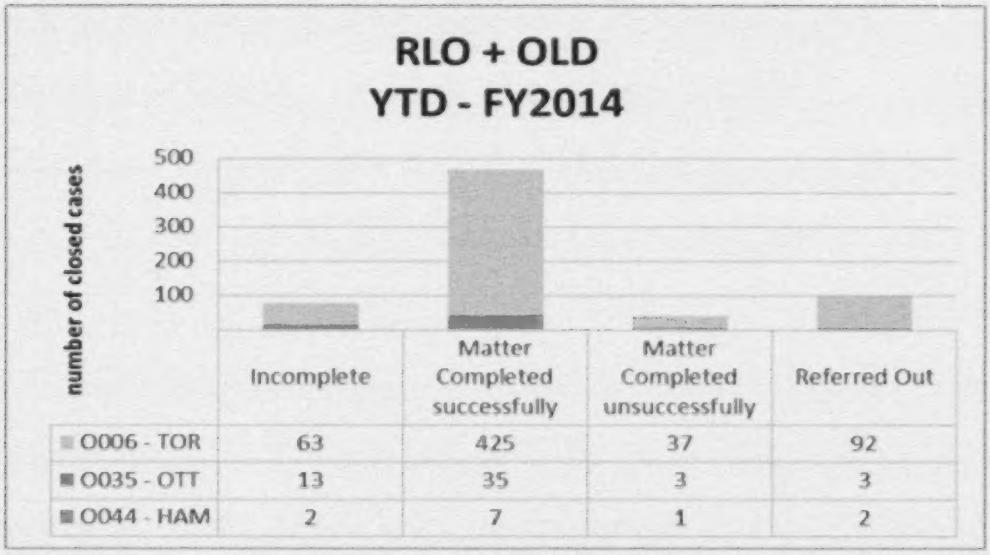

OTTAWA @ March 31, 2015
Cases in progress by proceedings
RLO Referral
Refugee Appeal Division (RAD), 2, 12%
Immigration Appeal Division, 5, 29%
Refugee (PIF/BOC), 6, 35%
Judicial Review, 3, 18%
PRRA, 1, 6%

RLO Hamilton 2014/15


HAMILTON @ March 31, 2015
Cases in progress by proceedings
RLO Referral
Refugee Appeal Division (RAD), 6, 5%
Detention Review, 22, 18%
Refugee (PIF/BOC), 34, 27%
Federal Court, 1, 1%
PRRA, 2, 2%
General Immigration, 45, 36%
Judicial Review, 8, 6%
Immigration Appeal Division, 7, 5%

Outcomes

The chart below captures fiscal year closed files and outcomes.



	Incomplete	Matter Completed successfully	Matter Completed unsuccessfully	Referred Out
O006 - TOR	63	425	37	92
O035 - OTT	13	35	3	3
O044 - HAM	2	7	1	2

Clinic services

Clinic refugee service agreements: LAO initiated service agreements with the Centre Francophone de Toronto, Rexdale Community Legal Clinic, and Vanier Community Centre in

Ottawa in 2013. All three clinics provided legal aid services to refugees who did not have lawyers. This one-year pilot is extended to the end of fiscal year 2014/15.

This community-based initiative is important in LAO's efforts to diversify its refugee services model, support community-based wrap around client services and deliver cost-effective, efficient, quality legal representation. A recent evaluation of the pilots indicates that the number of refugees using this service, with the exception of Rexdale, does not support ongoing funding of this initiative at this time.

Test cases

The RLO-Toronto has worked closely with LAO's Group Applications and Test Case Committee (GATCC) to create LAO's Refugee Law Test Case strategy. This strategy, led by LAO's Refugee Law senior counsel, is on the LAO website. The strategy includes a focus on:

- equal access to, and effective protection of, Charter rights (in particular s. 2, 7 and 15).
- protection of mentally ill non-citizens.
- protection and promotion of the rights of the child.
- domestic application/implementation/enforcement of international human rights law.
- protection of citizenship for naturalized Canadians.

LAO staff engaged in a number of test case initiatives including:

- appearing before the Supreme Court of Canada in three cases raising important issues of domestic and international refugee and immigration law
- partnering with the Income Security Advocacy Centre to advocate for equal access to social benefits for indigent non-citizens
- partnering with Aboriginal Legal Services of Toronto in a ground-breaking case concerning the intersection of Aboriginal rights, the rights of the child, and immigration law
- arguing the unconstitutionality of the one-year bar on access to a risk review in several test cases before the federal court
- bringing three cases to UN bodies monitoring Canada's compliance with its international treaty obligations.

Area committee

LAO's area committee led by LAO senior management consists of paid private bar practitioners who make decisions on merit assessments for judicial review funding. In 2014/15, the committee refused 237 out of 765 new applications for various reasons.

	New applications	Total refused	Refusal reasons			
			Financial	Legal	Abandoned	Unknown
Judicial review/appeal to federal court	765	237	27	153	6	51

General counsel office – merit and non-resident appeals

All decisions on judicial review (JR) merit assessments for non-resident applicants are made by the appeals officer in LAO's General Counsel Office. Below are statistics related to non-resident merit decisions:

Non-resident JR files from April 1, 2014 to March 31, 2015: Total = **221**

The appeals officer also deals with appeals of denials of refugee certificates.

52 received for the fiscal year: 24 (allowed), 28 (refused)

Refugee appeal division (RAD) committee

LAO's RAD committee makes decisions on merit assessments for RAD funding. In 2014/15, the committee received 506 new applications.

	New applications	Total refused	Refusal reasons			
			Financial	Legal	Abandoned	Unknown
Refugee Appeal Division	506	155	3	9	2	141

Refugee services support

LAO is committed to excellence in the delivery of refugee services and training and mentorship are key components of this commitment.

Refugee Law Office (RLO) conference: LAO marked the RLO's 20th Anniversary with a special Refugee Law Office Conference in June 2014. James Hathaway, a 'star' in the area of

international refugee law, was the keynote speaker. Over 300 people attended the conference, which was accredited by the Law Society of Upper Canada.

Refugee law learning and development: The RLO and LAO's human resources department initiated a joint project to develop substantive refugee law training modules for staff, private bar and clinics. These modules cover topics such as how to prepare the application for a refugee to remain in Canada on humanitarian and compassionate grounds, how to prepare for an appeal for refugee status and how to represent clients who are detained at the border. The modules are posted on LAOLaw.

Refugee mentoring (Second chair program): LAO has established a refugee mentoring program which provides paid hours for mentoring. A senior lawyer in need of support on a complex file can retain a mentee to assist. Likewise, a junior practitioner can seek the support of a mentor on a complex file.

Refugee services quality

Refugee panel standards

LAO consulted extensively for close to a year on refugee panel standards and engaged the Refugee Lawyers Association (RLA) in a review of the final draft. LAO's Board approved the revised standards in October 2014 and the approved standards are posted on LAO's website.

Efforts are underway to implement the new panel standards. LAO consulted the RLA on the implementation process to ensure fairness and transparency. The implementation process will take several months.

Refugee panel removals

LAO continues its efforts at refugee panel removals of service providers who deliver poor quality service, who have been suspended by the Law Society or who fail to comply with LAO's terms and conditions and the *Legal Aid Services Act*. Twenty refugee lawyers across the province are currently under temporary or permanent removal orders or have been issued notices of removal.

Communications

LAO issued a total of 10 refugee related news items on its website over the last year, dealing with matters such as increased coverage for concurrent proceedings and refugee standards.

LAO has improved its content on its website dealing with refugee and immigration matters as it expands its services to include clinics and staff.

LAO frequently requests support from the RLA in its communications through use of the RLA list serve and local refugee bar networks, including Ottawa.

LAO has improved its refugee and immigration information for clients to ensure they can access timely and accurate online information.

Stakeholder engagement

LAO consulted this year with stakeholders on the new refugee and immigration standards as well as on guidelines for standards implementation. Stakeholders include the private bar, community and settlement agencies, legal aid clinics, IRB, Department of Justice (DOJ), CBSA, Citizenship and Immigration Canada (CIC).

In addition to formal consultations, LAO holds regular stakeholder meetings with members of the following committees.

Refugee Lawyers Association: LAO holds meetings every two months with executive members of the RLA.

LAO's Board Immigration & Refugee Advisory Committee: Meetings are held twice a year.

Refugee Services Operations Review Committee: The Refugee Services Operations Review Committee meets every two months and provides LAO with feedback on transformation including initiatives related to merit screening, referrals and refugee and immigration standards.

LAO/IRB/CBSA/CIC/DOJ: LAO hosts a committee of key partners every quarter to discuss issues of common interest, including changes to policy and process that impact refugee and immigration matters.